

Appln. No.: 10/851,576; Filed: March 31, 2004  
Restriction Requirement Mailed October 10, 2007  
Response To Restriction Filed On November 13, 2007

## **REMARKS**

### **Election of Invention**

The Examiner has issued a restriction requirement stating that the application claims three distinct inventions. Specifically, the Examiner identifies the three inventions as being:

- I. Claims 1-18, drawn to a composition comprising a non-glucocorticoid steroid and a glucocorticosteroid;
- II. Claims 19-23 drawn to a kit comprising a delivery device and the pharmaceutical composition comprising a non-glucocorticoid steroid and a glucocorticosteroid; and
- III. Claims 24-27, drawn to a method of reducing the probability of or treating asthma in a subject or a method of treatment of respiratory, lung or malignant disorder comprising administering a composition comprising a non-glucocorticoid steroid and a glucocorticosteroid.

Pursuant to 37 C.F.R. §1.142, Applicants elect Group 1, Claims 1-18 without traverse. Accordingly, claims 19-27 are canceled without prejudice. As inventions II and III are related as product and process of use, Applicants reserve the right to rejoinder of the non-elected process inventions in the event that the claims directed to the product invention are found allowable.

Applicants also reserve the right pursuant to 35 U.S.C. §121 to file one or more divisional applications directed to the non-elected invention during the pendency of the present application.

### **Election of Species**

The Examiner has indicated that the claims are directed to patentably distinct species and has requested an election of species. Applicants provide herewith an election of the following species.

- 1) Non-glucocorticosteroid - dehydroepiandrosterone sulfate (DHEA-S)
- 2) glucocorticosteroid - beclomethasone dipropionate
- 3) ubiquinone - the formula of claim 15 where n = 10 (Coenzyme Q (10))

Pursuant to 37 C.F.R. §1.141, Applicants reserve the right to pursue claims to the non-elected species in this application in the event that a generic claim is found to be allowable.

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### **CONCLUSION**

Applicants submit that this paper fully addresses the Office Action mailed October 10, 2007. Should the Examiner have any questions, the Examiner is encouraged to contact the undersigned attorney at (650) 565-3756. The Commissioner is authorized to charge any additional fees which may be required, including petition fees and extension of time fees, to Deposit Account No. 23-2415 (Docket No. 30775-724.201).

Respectfully submitted,

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Dated: November 13, 2007

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